IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.158 OF 2006

ALONG WITH

CIVIL APPLICATION NO.211 OF 2006

Shri Anil Narayan Virkar & Ors. ...Appellants

Versus

Swastik Rubber Products Ltd. & Ors. ...Respondents

.....

Mr.Mhatre i/b Mr.Jaydeep S.Deo for Appellants.

Mr.R.M.Pethe for Respondents 4 & 5.

.....

CORAM: A.M.KHANWILKAR, J.

MARCH 7, 2006.

P.C.

1. Heard Counsel for the parties.

2. I find no reason to interfere in this Appeal. The apprehension expressed on behalf of the Appellants clearly overlooks that scheme has already been sanctioned by the competent Authority under the provisions of Sick Industrial Companies

(Special Provisions) Act, 1985. That scheme is being enforced in respect of the Respondent No.1 Company which was a sick unit. In the course of enforcement of the Scheme, the property in respect of which the Appellants/Plaintiffs seek to create charge, is already transferred in favour of the third party. Indeed, the third party has been made Defendant in the present proceedings. That does not make any difference to the question raised before the Trial Court and reiterated before this Court. The fact remains that the Scheme passed by the competent Authority has not been challenged by the Appellants who incidentally happen to be the workers of the Defendant Company. According to the Appellants, no provision has been made in the Scheme to secure the interest of the workers. It is not in dispute that the workers agitated their grievance before the BIFR who in turn observed that the workers may take recourse to appropriate remedy before the Labour Court. That course has not been adopted so far. Instead, the present Suit has been filed.

3. Suffice it to observe that the relief

claimed in the Suit and in particular the interim injunction asked, if granted, would result in interdicting the scheme framed by the competent Authority which has not been challenged so far at the instance of the workers. Even on this reasoning, the Appeal should fail. Ordered accordingly.

4. All questions are kept open in the proceedings to be adopted by the workers or the Appellants/Plaintiffs before the Labour Court, to be decided on its own merits in accordance with law.

A.M.KHANWILKAR, J.